

## THINKING OF FRANCHISING YOUR BUSINESS? HERE'S SOME POINTERS TO GET YOU STARTED

By Taimi Williamson

Do you have a business that you currently operate and wonder if it would make a good franchise? Or, do you have an idea for a business that you think you'd like to franchise down the road? If yes to either question, then the following will be of interest to you.

Franchised businesses make up a large percentage of our consumer marketplace, with everything from restaurants, coffee, retail stores, restoration/renovation services, hairdressing, house cleaning, car repair and so on operating under the franchise business model. So, how did these entrepreneurs determine whether or not their business was "franchise-able"? Essentially, a "franchise" is a system of doing business in which a "franchisor" (you, the business owner/concept originator) gives a "franchisee" the right to carry on business in a specified manner under the franchisor's trademark, usually within a defined geographical area. We usually associate a franchise with a particular product or service and connect it with a trademark that is well known in the marketplace. For example: Tim Horton®. By franchising the Tim Horton® concept and product, consumers can be virtually assured that when they walk through the doors of any Tim Horton® location in Canada it will look virtually identical to all other Tim Horton® locations, and will offer virtually identical products that will all taste virtually the same regardless of whether the Tim Horton® is located in Toronto or Yellowknife. Thus, the beauty of franchising: standardization. Consumers come to know the goods or services associated with a certain trademark and brand and will seek out those services or products. By purchasing a franchise, the franchisee obtains the right to use the successful formula of the franchisor without having to "reinvent the wheel". In order to maintain the success of its franchise system, the franchisor in turn will require franchisees to strictly adhere to its system and standards of quality.

A couple key issues to franchising a business arise from the above paragraph. First, in order for a business to be successfully "franchise-able", it is helpful if it is a product or service that is capable of standardization. For instance, if your business is that of a bakery where each creation requires your personal touch,

with a bit of this and a bit of that thrown in at your discretion, then that likely wouldn't be easily transformed into a franchise system because there would be little continuity of product. If however your bakery has set recipes, and individuals can be trained or instructed to follow those recipes, then that would be a product that can be standardized to ensure product quality and consistency.

The second issue that arises is that of a trademark. What is your product, and how will it come to be known to the public? Our marketplace is so saturated with trademarks and logos that we typically find ourselves glossing over 14 different makers of pasta sauce until we see that one brand that we are devoted to. So, in order to create a successful franchise system, you will need a trademark associated with your business, and you will in turn license your franchisees the right to use that trademark in their franchised location.

A third issue that you should consider is the contractual and legal aspects of franchising. Because you are licensing someone to use your trademarks, business model, system, décor, and so on, you need to ensure strict adherence to your standards and methods. This is done via a "franchise agreement" between you as franchisor and each franchisee. The franchise agreement is a lengthy contract that outlines system standards, the franchisee's obligations, dispute resolution mechanisms, etc. In addition to a franchise agreement, if you are going to be offering franchises for sale in Ontario, Alberta, P.E.I. or New Brunswick, you will need a "disclosure document". A franchisor is required by law to provide a disclosure document to a prospective franchisee and must set out certain prescribed information in the disclosure document. Failure to provide a disclosure document that meets all of the prescribed criteria will expose the franchisor to severe penalties. So, if thinking of franchising your business, speak with a qualified legal professional as to the costs and timing of having the franchise documentation properly drawn up.

A final issue for consideration is the administrative/management side of being a franchisor. You have developed a business model and trademarked your products or services and are now licensing the right to other people to carry on business under that model, selling those products or services. As franchisor you will be required to: establish training for all franchisees; create a standardized set of guidelines for their business operations; oversee advertising at a local and national level; organize on-going franchisee training

events; continue to build the trademarks and products in your system; monitor your franchisees to make sure they are upholding your system standards; continue to sell franchises to new prospects; provide on-going assistance to existing franchisees, and a variety of other tasks.

There are many more issues to consider when thinking of franchising a business, like timing, market penetrability and so on. If you are thinking of franchising your business it would be a good idea to take some time and do some internet research on franchising generally, and also to see what other systems similar to yours are currently operating, and then speak with a franchise lawyer and your financial advisor as to the logistics of setting up your system.

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